

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2007-0231-IHW-E **TCEQ ID:** RN103765053 **CASE NO.:** 32650**RESPONDENT NAME:** BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input checked="" type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Allied Waste Services of Houston, 8101 Little York Road, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Commercial waste hauling company</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 6, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468</p> <p><b>Respondent:</b> Mr. Todd Casselman, General Manager, BFI Waste Services of Texas, LP dba Allied Waste Services of Houston, 350 North St. Paul Street, Dallas, Texas 75201</p> <p>Mr. Christopher R. Synek, Senior Vice President, BFI Waste Services of Texas, LP dba Allied Waste Services of Houston, 350 North St. Paul Street, Dallas, Texas 75202</p> <p><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigations Relating to this Case:</b> November 10, 2006 and February 13, 2007</p> <p><b>Date of NOE Relating to this Case:</b> December 20, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to prevent the transportation of non-hazardous Class I industrial waste for the disposal at an unauthorized site. Specifically, on July 20, 2006 and August 15, 2006, drivers for the Respondent mistakenly collected partially filled 20 cubic yard roll-off boxes containing Class I industrial waste and transported it with Class II industrial waste manifests for disposal at the McCarty Road Landfill which is not permitted to accept Class I industrial waste [30 TEX. ADMIN. CODE § 335.2(b)].</p> <p>2) Failure to update the Notice of Registration (NOR). Specifically, the NOR did not include the following waste streams: office trash, wastewater treatment sludge, and wastewater treatment filters. Also the NOR did not reflect inactive Waste Management Units [30 TEX. ADMIN. CODE § 335.6(c)].</p> <p>3) Failure to pay outstanding general permits storm water fee for the TCEQ Financial Account No. 20010079 for the fiscal year of 2007 [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$1,100</p> <p><b>Total Deferred:</b> \$220  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$880</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that on November 28, 2006, the Respondent requested an update to the NOR; to inactive Waste Management Units no longer being used, and to include the following waste streams: office trash, wastewater treatment sludge, and wastewater treatment filters.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, cease transporting Class I waste to the McCarty Road Landfill or any other unauthorized facility;</p> <p>b) Within 30 days after the effective date of this Agreed Order, develop and implement improvements to the waste identification program to ensure wastes are handled properly;</p> <p>c) Submit payment for outstanding fees, including any associated penalties and interest; and</p> <p>d) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

**DATES**

**Assigned PCW**

8-Jan-2007  
13-Feb-2007

**Screening**

13-Feb-2007

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** BFI Waste Services of Texas, LP dba Allied Waste Services of Houston  
**Reg. Ent. Ref. No.** RN103765053  
**Facility/Site Region** 12-Houston

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 32650  
**Docket No.** 2007-0231-IHW-E  
**Media Program(s)** Industrial and Hazardous Waste  
**Multi-Media**  
**Admin. Penalty \$** **Limit Minimum** \$0 **Maximum** \$10,000

**No. of Violations** 3  
**Order Type** 1660  
**Enf. Coordinator** Colin Barth  
**EC's Team** 8

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$1,100

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 0% Enhancement **Subtotals 2, 3, & 7** \$0

**Notes**

The respondent has no record of any previous NOV's or Orders at this site within the past 5 years.

**Culpability**

No

0% Enhancement

**Subtotal 4** \$0

**Notes**

The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**

0% Reduction

**Subtotal 5** \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

**Notes**

The respondent does not meet the good faith criteria.

0% Enhancement\*

**Subtotal 6** \$0

Total EB Amounts \$2,142  
Approx. Cost of Compliance \$2,750

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$1,100

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

**Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount** \$1,100

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty** \$1,100

**DEFERRAL**

20%

Reduction

**Adjustment** -\$220

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$880

Screening Date 13-Feb-2007

Docket No. 2007-0231-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

Policy Revision 2 (September 2002)

Case ID No. 32650

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103765053

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The respondent has no record of any previous NOVs or Orders at this site within the past 5 years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 13-Feb-2007

Docket No. 2007-0231-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

Policy Revision 2 (September 2002)

Case ID No. 32650

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103765053

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b)

Violation Description

Failed to prevent the transportation of non-hazardous Class I industrial waste for disposal at an unauthorized site, as documented during an investigation conducted on November 10, 2006. Specifically, on July 20, 2006 and August 15, 2006, drivers working for the respondent mistakenly collected partially filled 20 cubic yard roll-off boxes containing Class I industrial waste and transported it with Class II industrial waste manifests for disposal at the McCarty Road Landfill which is not authorized to accept Class I industrial waste.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 2

95 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

Two single events are recommended (one event per shipment).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2,141

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent** BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

**Case ID No.** 32650

**Reg. Ent. Reference No.** RN103765053

**Media** Industrial and Hazardous Waste

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	10-Nov-2006	21-Oct-2007	0.9	\$24	n/a	\$24

**Notes for DELAYED costs**

Estimated cost to ensure that waste containers are identified properly and transported from the investigation date to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	10-Nov-2006	13-Feb-2007	1.2	\$118	\$2,000	\$2,118

**Notes for AVOIDED costs**

Avoided cost of locating, recovering, and properly disposing of approximately 40 cubic yards of Class I Industrial waste from the investigation date to the screening date.

**Approx. Cost of Compliance**

\$2,500

**TOTAL**

\$2,141

Screening Date 13-Feb-2007

Docket No. 2007-0231-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

Policy Revision 2 (September 2002)

Case ID No. 32650

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103765053

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to update the Notice of Registration (NOR), as documented during an investigation conducted on November 10, 2006. Specifically, the NOR did not include the following waste streams: office trash, wastewater treatment sludge, and wastewater treatment filters. Also the NOR did not reflect inactive Waste Management Units.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

## Economic Benefit Worksheet

**Respondent** BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

**Case ID No.** 32650

**Reg. Ent. Reference No.** RN103765053

**Media** Industrial and Hazardous Waste

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	10-Nov-2006	28-Nov-2006	0.0	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit updates to the NOR from the investigation date to the date compliance was achieved.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$1



Screening Date 13-Feb-2007

Docket No. 2007-0231-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

Policy Revision 2 (September 2002)

Case ID No. 32650

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103765053

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 205.6 and Tex. Water Code § 5.702

Violation Description

Failed to pay outstanding general permits storm water fee for the TCEQ Financial Account No. 20010079 for the fiscal year of 2007, as documented during a record review conducted on February 13, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

No penalty is calculated for this violation.

Adjustment \$10,000

\$0

## Violation Events

Number of Violation Events

Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

## Economic Benefit Worksheet

**Respondent** BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

**Case ID No.** 32650

**Reg. Ent. Reference No.** RN103765053

**Media** Industrial and Hazardous Waste

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

### Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN601527963 BFI Waste Services of Texas, LP Classification: AVERAGE Rating: 3.27

Regulated Entity: RN103765053 ALLIED WASTE SERVICES OF HOUSTON Classification: AVERAGE BY DEFAULT Site Rating: 3.01  
INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD000618355  
INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) 40034

ID Number(s):  
Location: 8101 LITTLE YORK RD, HOUSTON, TX, 77016 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 31, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 31, 2002 to January 31, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Colin Barth Phone: 512 239 0086

## Site Compliance History Components

- |                                                                                              |     |
|----------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?                                                         | N/A |
| 4. If Yes, who was/were the prior owner(s)?                                                  | N/A |
| 5. When did the change(s) in ownership occur?                                                | N/A |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 12/20/2006 (511417)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BFI WASTE SERVICES OF TEXAS,  
LP DBA ALLIED WASTE SERVICES  
OF HOUSTON  
RN103765053

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-0231-IHW-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BFI Waste Services of Texas, LP dba Allied Waste Services of Houston ("BFI") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and BFI appear before the Commission and together stipulate that:

1. BFI owns and operates a commercial waste hauling company at 8101 Little York Road in Houston, Harris County, Texas (the "Operation").
2. The Operation involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and BFI agree that the Commission has jurisdiction to enter this Agreed Order, and that BFI is subject to the Commission's jurisdiction.
4. BFI received notice of the violations alleged in Section II ("Allegations") on or about December 25, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by BFI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of One Thousand One Hundred Dollars (\$1,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). BFI has paid Eight Hundred Eighty Dollars (\$880) of the administrative penalty and Two Hundred Twenty Dollars (\$220) is deferred contingent upon BFI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If BFI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require BFI to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and BFI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on November 28, 2006 BFI requested an update to the Notice of Registration ("NOR"), to inactivate Waste Management Units no longer being used, and to include the following waste streams: office trash, wastewater treatment sludge and wastewater treatment filters.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that BFI has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Operation, BFI is alleged to have:

1. Failed to prevent the transportation of non-hazardous Class I industrial waste for disposal at an unauthorized site, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on November 10, 2006. Specifically, on July 20 and August 15, 2006, drivers for BFI mistakenly collected partially filled 20 cubic yard roll-off boxes containing Class I industrial waste and transported it with Class II industrial waste manifests for disposal at the McCarty Road Landfill which is not permitted to accept Class I industrial waste.
2. Failed to update the NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on November 10, 2006. Specifically, the NOR did not include the following waste streams: office trash, wastewater treatment sludge, and wastewater treatment filters. Also the NOR did not reflect inactive Waste Management Units.





3. Failed to pay outstanding general permits storm water fee for the TCEQ Financial Account No. 20010079 for the fiscal year of 2007, in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702, as documented during a record review conducted on February 13, 2007.

### **III. DENIALS**

BFI generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that BFI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and BFI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BFI Waste Services of Texas, LP dba Allied Waste Services of Houston, Docket No. 2007-0231-IHW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that BFI shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease transporting Class I waste to the McCarty Road Landfill or any other unauthorized facility;
  - b. Within 30 days after the effective date of this Agreed Order, develop and implement improvements to the waste identification program to ensure wastes are handled properly;
  - c. Submit payment for outstanding fees, including any associated penalties and interest and with the notation, "BFI Waste Services of Texas, LP, Account No. 20010079", to the address listed in Ordering Provision 1; and
  - d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."



The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

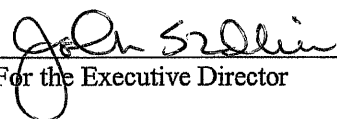
3. The provisions of this Agreed Order shall apply to and be binding upon BFI. BFI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.
4. If BFI fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, BFI's failure to comply is not a violation of this Agreed Order. BFI shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. BFI shall notify the Executive Director within seven days after BFI becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by BFI shall be made in writing to the Executive Director. Extensions are not effective until BFI receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against BFI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to BFI, or three days after the date on which the Commission mails notice of the Order to BFI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

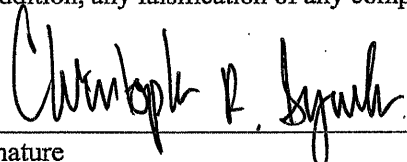
8/21/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

5/22/07  
\_\_\_\_\_  
Date

CHRISTOPHER R. SYNEK  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
BFI Waste Services of Texas, LP dba Allied Waste Services of Houston

SENIOR VICE PRESIDENT  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

184.00  
184.00

184.00  
184.00